



OFFICE OF PUBLIC SCHOOL CONSTRUCTION

Interagency Support Division

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Date: January 5, 2000 Mass Mailer #00-01

To: All School Districts and County Superintendents of Schools

Subject: **ADVISORY OF ACTIONS TAKEN BY THE STATE ALLOCATION BOARD
AND OTHER PERTINENT INFORMATION**

On December 8, 1999, the State Allocation Board (SAB) apportioned \$134.8 million for School Facility Program (SFP) projects, \$2.1 million for Lease-Purchase Program (LPP) projects, and \$2.1 million for Deferred Maintenance Program critical hardship projects.

Consent Calendar

The cost indices under the LPP for the Class B and D construction increased from 1.35 to 1.36, effective November 1, 1999 and increased from 1.36 to 1.37, effective December 1, 1999. The cost indices for Furniture/Equipment and Historical Savings remained unchanged for both November and December 1999.

The consent agenda included LPP bid approvals and ongoing project cost increases. In addition to the funds apportioned as noted above, the SAB also made "unfunded" approvals for modernization projects in the amount of approximately \$150 million. Currently, there are projects totaling approximately \$370 million on the modernization "unfunded" list.

Status of Funds

The balances available from Proposition 1A funds until July 2000, are \$369.2 million for new construction, \$7.4 million for modernization, \$163.2 for hardship, and \$244.1 million for class size reduction. There is approximately \$49 million remaining in prior bond funds in the LPP to address ongoing project costs, bid approvals, and the Northridge Earthquake Program.

Force Account Labor Under the SFP

The SAB adopted an amendment to the SFP Regulations to clarify that expenditures made by districts utilizing "force account labor" are eligible under the SFP as long as the district complies with the Public Contract Code regarding all laws governing the use of force account labor. The Office of Public School Construction (OPSC) is revising the *Fund Release Authorization* (Form SAB 50-05) and the *Expenditure Report* (Form SAB 50-06) to address the use of district force account labor.

Multitrack Year-Round Education Adjustments

The SAB approved a proposed amendment to its regulations regarding the application of the multitrack year-round education (MYTRE) adjustment for high school districts. The proposed change is six percent of the capacity of the high school district if filing districtwide or six percent of the district's capacity of the high school attendance area (HSAA) when the district is filing on a HSAA basis. The SAB approval was subject to passage of legislation that supports the proposed amendment.

Use of New Construction Grants

The SAB approved an amendment to the SFP Regulations that will allow a district to use new construction SFP grant eligibility:

- That exceeds the pupil capacity in the project.
- That was generated at a different grade level than the proposed project, provided the district use all new construction grant eligibility at the project grade level first, then all eligibility at the lowest grade level other than the proposed project and finally at the next highest grade level other than the proposed project.

If a district intends on using its new construction grants based on one or both of the above conditions, the district must submit a school board resolution, which includes all the following:

- A plan that describes how the district has or will adequately house the pupils receiving grants beyond the capacity of the project or at a grade level other than the proposed project.
- Acknowledgement that funds for the purpose of housing pupils are being diverted to an alternative use.
- Acknowledgement that the State has satisfied its obligation to house the pupils receiving grants.

The plan described in the school board resolution must be submitted to both the OPSC and the California Department of Education (CDE) for review and approval. If the plan is approved by both the OPSC and CDE, the districts' request will be presented for approval on the consent calendar as long as the request is for new construction grants at the same grade level of the project and the grant request does not exceed 150 percent of the capacity of the project. All other requests of this nature may be presented to the SAB on a case-by-case basis.

Other Issues

- Education Code (EC) Section 17076.11, which became law on January 1, 2000, requires districts using funds allocated pursuant to the SFP for the construction or modernization of a school building to have a participation goal of at least three percent, per year, of the overall dollar amount expended each year by the school district, for Disabled Veteran Business Enterprises (DVBE).

Districts are advised that the *Application for Funding*, Form SAB 50-04 includes a certification section whereby the district certifies that it will comply with all laws pertaining to the construction or modernization of its school buildings. This section includes compliance with EC Section 17076.11 beginning January 1, 2000. Districts should seek advice from district's legal counsel regarding compliance with the DVBE provisions. The OPSC will be unable to provide assistance or advice on the procedures districts must use to comply with the law.

EC Section 17070.85 invalidated liens previously filed by the State on property of school districts previously participating in certain State school building facility programs. The OPSC has sent a Notification of Lien Release document to all affected school districts and county superintendents of schools. Further action is required by those districts and county superintendents. The District or COE must send the Notification of Lien Release to the county recorder for recordation to remove the State's lien. To date, only one half of the lien release certificates have been recorded with the county. Districts are encouraged

to complete the necessary filing in order to completely clear the State liens. For specific information regarding lien releases, please contact Bryan Breaks, Audit Supervisor, at bbreaks@dgs.ca.gov or (916) 445-3156.

- On September 22, 1999, the SAB approved the Interim Financing Program to provide interim financing for "unfunded" modernization projects eligible for State funding under the SFP. The OPSC advisory letter dated October 21, 1999, indicated that any interim financing costs associated with this program were the responsibility of the district and not reimbursable under the SFP. Recently, the OPSC received a clarification of the SAB action. These interim financing costs are reimbursable under the SFP, but only from savings in the SFP project. Since savings on financial hardship projects must be used to reduce the State apportionment, interim financing costs on these projects are not eligible for reimbursement. Additionally, no additional funding or allowances is provided for purposes of these expenditures. For specific information regarding the Interim Financing Program for modernization projects, please contact Lisa Presta, Executive Director, CSFA, at lpresta@treasurer.ca.gov, (916) 653-2913 or (213) 620-4467.
- The OPSC has been advised that many district representatives believe the 60 percent commensurate test required on funding applications mean the district need only spend 60 percent of the grant funds and appropriate district matching share contribution on the project. The remaining 40 percent can then be declared savings and used on other high priority capital facility projects of the district.

This is not the case as the 60 percent commensurate certification is based solely on the estimated construction costs of the work in the plans and specifications including deferred construction items and interim housing relating the proposed project. The SFP grant and the appropriate district matching share are also used to fund other costs of the project such as planning, tests, inspection and furniture/equipment. Any project savings remaining after the completion of the entire project, including these items may then be declared "savings" and used as outlined in the SFP regulations.

- Please note that a district's approval for financial hardship by the OPSC is valid for six months from the date of the approval letter. During this period, the district may file applications for funding for those projects covered in the approval letter only. If the district wishes to file funding applications for project(s) not included in the approval letter, the district must first submit a new Financial Hardship Project Worksheet and an expenditure report for each new project to the OPSC. The OPSC Fiscal Section will review the additional data and issue a new approval letter based on the data submitted. After the six months expires, the district must file a complete new financial hardship package.

Copies of the applicable SAB actions can be found on the OPSC Web site at <http://www.opsc.dgs.ca.gov>. Should you have questions or need any additional information regarding the contents of this letter, please contact your project manager.

Sincerely,

LUISA M. PARK
Interim Executive Officer
Office of Public School Construction
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